



ZONING HARDSHIP VARIANCE APPLICATION

WAKE COUNTY
NOV - 2 2015
PLANNING, DEVELOPMENT & INSPECTIONS

BA V - 2221 - 15

Submit required documentation to:
Wake County Planning, Development and Inspections
PO Box 550 Wake County Office Building
Raleigh, NC 27602-0550 336 Fayetteville Street Mall, Downtown Raleigh
Contact (919) 856-6335 for additional information.

File #
Fee
Amt Paid
Check #
Rec'd Date
Rec'd By

Unified Development Ordinance Regulation(s) Proposed to be Varied (cite each section(s) and identify requirement from which the variance(s) is (are) being requested; quantify variance -- i.e. if this is a variance to allow an encroachment into a setback, give depth of encroachment and total square feet of area proposed to encroach into setback- be specific):

Variance from 20' side setback requirement imposed by Article 5, Part 1, Section 5-11-1.1 (R-80W). Existing structure encroaches into side setback 6.7 feet/approximately 201 square feet. 2. Existing deck encroaches into side setback 5.4 feet/approximately 71.6 square feet. Requesting side setback variance to 13'

Property

Parcel Identification Number: 0095386 PIN # 1719684247

Address: 1616 Brook Run Drive

Location: South side of Brook Run Drive, at/between
(north, east, south, west) (street)

East of Raven Ridge Road and _____
(street) (street)

Total site area in square feet and acres: 40,010 square feet 0.92 acres

Zoning District(s) and Overlay Districts (if any) and land area within each: R-80W

List Conditions of any Conditional Use Zoning Districts: N/A

Present land use(s): Residential

How is this proposed use a public necessity? The use of the property is not changing.

What is impact on surrounding neighborhood and adjacent properties? None

Property Owner

Name: Charles L. McGann, Jr.

Address: 1616 Brook Run Drive

City: Raleigh State: NC Zip Code: 27614

E-mail Address: c_mcgann@bellsouth.net Fax: _____

Telephone Number: 919-539-6690

Applicant (person to whom all correspondence will be sent)

Name: James R. Goodman - Goodman Law, PA

Address: 720-B W. Hargett Street

City: Raleigh State: NC Zip Code: 27603

E-mail Address: rick@goodmanlawpa.com Fax: 919-832-1829

Telephone Number: 919-832-1822 Relationship to Owner: Attorney

Extent of Proposed Variance (Describe the extent to which the regulation is proposed to be varied.)
Attach additional sheet as necessary.

Reduction of side setback from 20' to 13' on the western side of the property adjoining Lot 34 (1612 Brook Run Drive)
Current Survey of Lot 34, dated 2-10-15 by Turning Point Surveying indicates that the encroachment of the dwelling
is 13.3 feet from the property line. Survey prepared by John Y. Phelps for Lot 34 dated 11-13-14 indicates that the
encroachment of the dwelling is 13.1 feet from the property line.

All property owners must sign this application unless one or more individuals are specifically authorized to act as an agent on behalf of the collective interest of some or all of the owners (provide a copy of such authorization).

The undersigned property owner(s) hereby authorize the filing of this application (and any subsequent revisions thereto). The filing of this application authorizes the Wake County staff to enter upon the site to conduct relevant site inspections as deemed necessary to process the application.

Signature:  Date: 10/30/2015

Signature: _____ Date: _____

Signature: _____ Date: _____

Land use professionals (architects, engineers, planners, landscape architects, etc.), as well as employees of corporate or municipal applicants, may testify at quasi-judicial proceedings about factual matters in support of an application, petition or appeal. However, they MAY NOT examine or cross-examine witnesses, make legal arguments as to why an application, petition or appeal should be granted, or otherwise advocate for results on behalf of another individual or entity at a quasi-judicial proceeding. These functions can ONLY be performed at a quasi-judicial proceeding by an attorney licensed to practice law in North Carolina. Therefore, it is **strongly recommended** that unless you are an individual representing yourself in a quasi-judicial proceeding, you have an attorney present to present your case.

The undersigned applicant hereby certifies that, to the best of his or her knowledge and belief, all information supplied with this application is true and accurate.

Signature:  Date: 10-30-15

Notes: All documents and maps submitted as required become the property of Wake County.
The Wake County Unified Development Ordinance is on the web at www.wakegov.com.

**ZONING HARDSHIP VARIANCE
STATEMENT OF JUSTIFICATION**

1. Unnecessary hardship would result from the strict application of the ordinance.

Property Owner (Mr. McGann) relied on a survey (surveyor now deceased) to construct an addition to his home and a deck. The western lot line on the survey turned out to be incorrect. The home and portion of the deck were permitted, inspected and a CO was issued in reliance on the inaccurate survey. Throughout the process, Mr. McGann attempted to comply with the UDO in effect at the time of construction. He spent significant time, effort and financial resources to obtain the necessary permits and have the additions constructed. Without a variance to bring the addition and deck into compliance, Mr. McGann's sole remedy is to tear down the addition and the deck which would result in an undue hardship.

2. The hardship results from conditions that are peculiar to the property, such as location, size, or topography.

The hardship results from the addition and the deck being constructed in reliance upon an inaccurate survey which was prepared specifically for this lot and not reliance on the subdivision plat. Because of the error in the particular survey prepared, the side property line was erroneously identified; thus, causing the side setback to be violated.

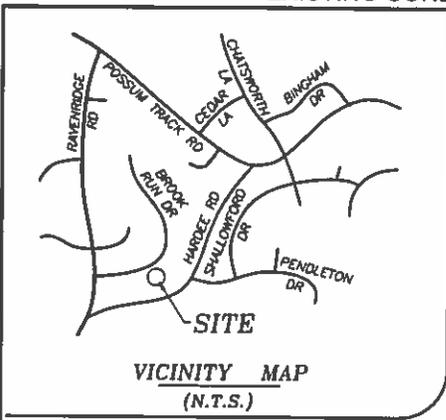
3. The hardship did not result from actions taken by the applicant or the property owner.

At the time Mr. McGann purchased the property, the deed conveying the property to Mr. McGann correctly identified the property being conveyed as Lot 35, Revised Ravenwood, Section 2 as shown on map recorded in Book of Maps 1975, Page 246, Wake County Registry. In conjunction with the purchase of the property, Mr. McGann had a survey prepared by Larry I. Chasak, Registered Land Surveyor. This survey, not the recorded plat, is what was relied upon by Mr. McGann in planning and permitting his addition and deck. Permits were issued, additions constructed and a CO was issued, all based on the erroneous survey which was not prepared by Mr. McGann.

4. The requested variance is consistent with the spirit, purpose, and intent of the ordinance, such that public safety is secured, and substantial justice is achieved.

Granting the requested variance will not change the current use of the property. It will not create any public safety concerns. It will not subvert the purposes of uniform development achieved by adherence to specific standards applicable to all uses within a given zoning district. The standards still exist. What granting the variance will do is demonstrate that adherence to the standards in the UDO are expected; however, in certain circumstances, such as those demonstrated here, varying the standards is possible to avoid an undue hardship. Substantial justice is achieved by assuring property owners that there is an avenue available to them to protect their investments in the event that they do not strictly comply with the letter of the law.

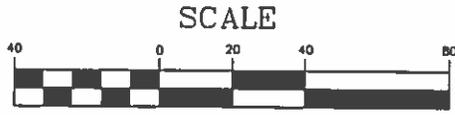
EXISTING CONDITIONS - ZONING VARIANCE SITE PLAN



I, Jeffrey H. Davis, PLS, certify this map was drawn under my supervision from an actual survey made under my supervision; and that the error of closure as calculated by latitudes and departures is 1/10,000+; that the boundaries not surveyed are shown as broken lines plotted from information found in Book ; Page ; that this map was prepared in accordance with G.S. 47-30 amended.

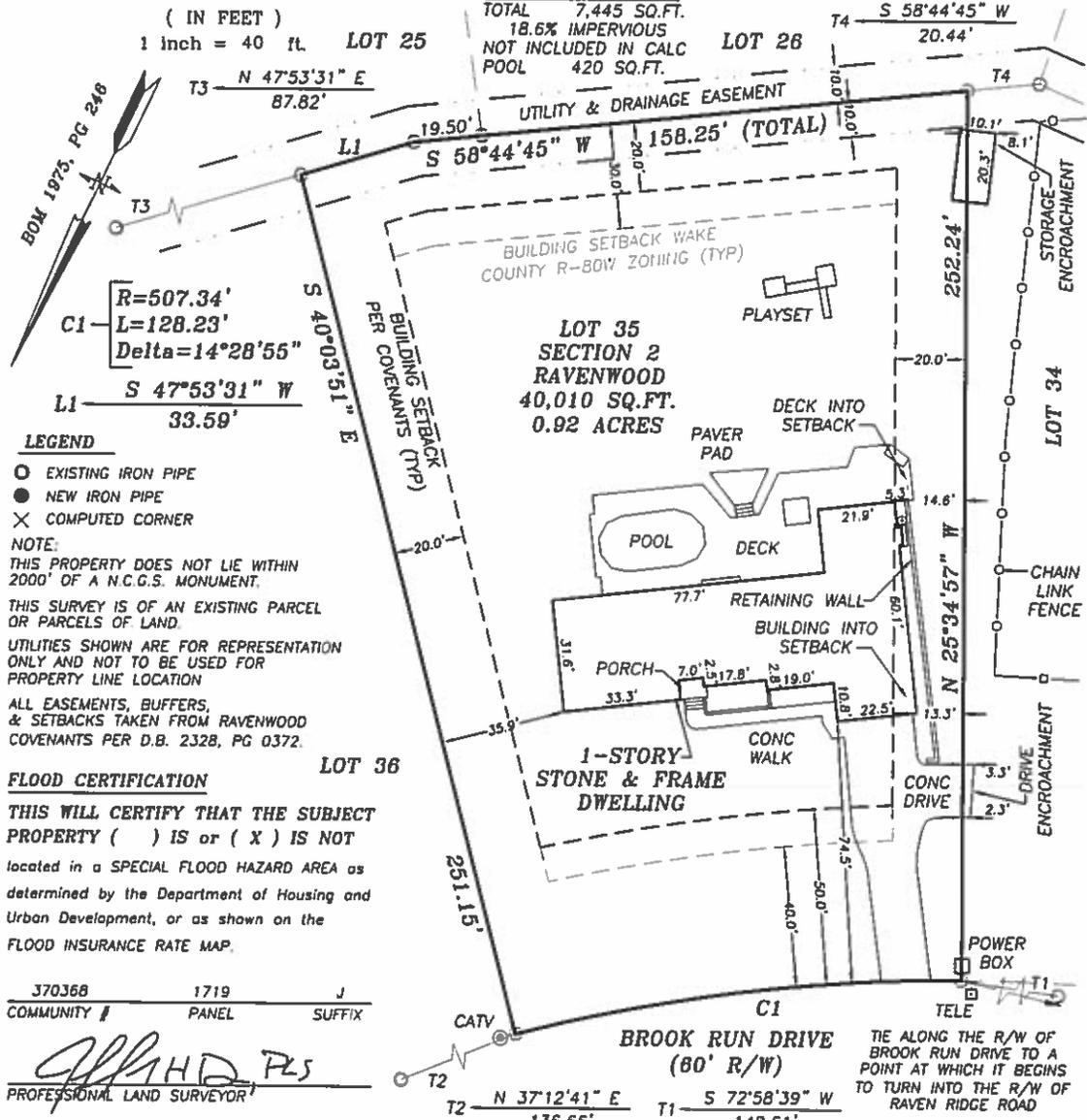
Witness my original signature, registration number and seal this 10TH day of FEBRUARY 2015.

Signed [Signature]



Seal

IMPERVIOUS AREA	
HOUSE	3,705 SQ.FT.
DECK	1,645 SQ.FT.
PORCH	60 SQ.FT.
PAVER PAD	105 SQ.FT.
PLAYSET	105 SQ.FT.
RET WALLS	100 SQ.FT.
STORAGES	65 SQ.FT.
DR/WALK	1,660 SQ.FT.
TOTAL	7,445 SQ.FT.
18.6% IMPERVIOUS	
NOT INCLUDED IN CALC	
POOL	420 SQ.FT.



C1
 R=507.34'
 L=128.23'
 Delta=14°28'55"
L1
 S 47°53'31" W
 33.59'

LEGEND

- EXISTING IRON PIPE
- NEW IRON PIPE
- × COMPUTED CORNER

NOTE:

THIS PROPERTY DOES NOT LIE WITHIN 2000' OF A N.C.G.S. MONUMENT.

THIS SURVEY IS OF AN EXISTING PARCEL OR PARCELS OF LAND.

UTILITIES SHOWN ARE FOR REPRESENTATION ONLY AND NOT TO BE USED FOR PROPERTY LINE LOCATION

ALL EASEMENTS, BUFFERS, & SETBACKS TAKEN FROM RAVENWOOD COVENANTS PER D.B. 2328, PG 0372.

FLOOD CERTIFICATION

THIS WILL CERTIFY THAT THE SUBJECT PROPERTY () IS or (X) IS NOT located in a SPECIAL FLOOD HAZARD AREA as determined by the Department of Housing and Urban Development, or as shown on the FLOOD INSURANCE RATE MAP.

370368 1719 J
 COMMUNITY # PANEL SUFFIX

[Signature]
 PROFESSIONAL LAND SURVEYOR

REVISED TO REMOVE STORAGE FRAME BASE (2-11-2015)

CO. REG. PAGE 246 B.O.M. 1975 MAKE	C.N. = 22269 B.O.M. 1975	CHARLES L. MCGANN, JR. MARY ANN P. MCGANN
	DATE: 02-10-2015 SCALE: 1" = 40'	LOT 35, SECTION 2 RAVENWOOD 1616 BROOK RUN DRIVE RALEIGH NORTH CAROLINA
	DWG. NO. A-18768	



TURNING POINT SURVEYING PLLC
 4113 JOHN S. RABOTEAU WYND
 RALEIGH, NORTH CAROLINA 27612
 FAX (800)948-0213 PH (919)781-0234
 License No: P-0121

TABLE OF CONTENTS – Maps

Chasak Map – Lot 35 - dated 6-24-97

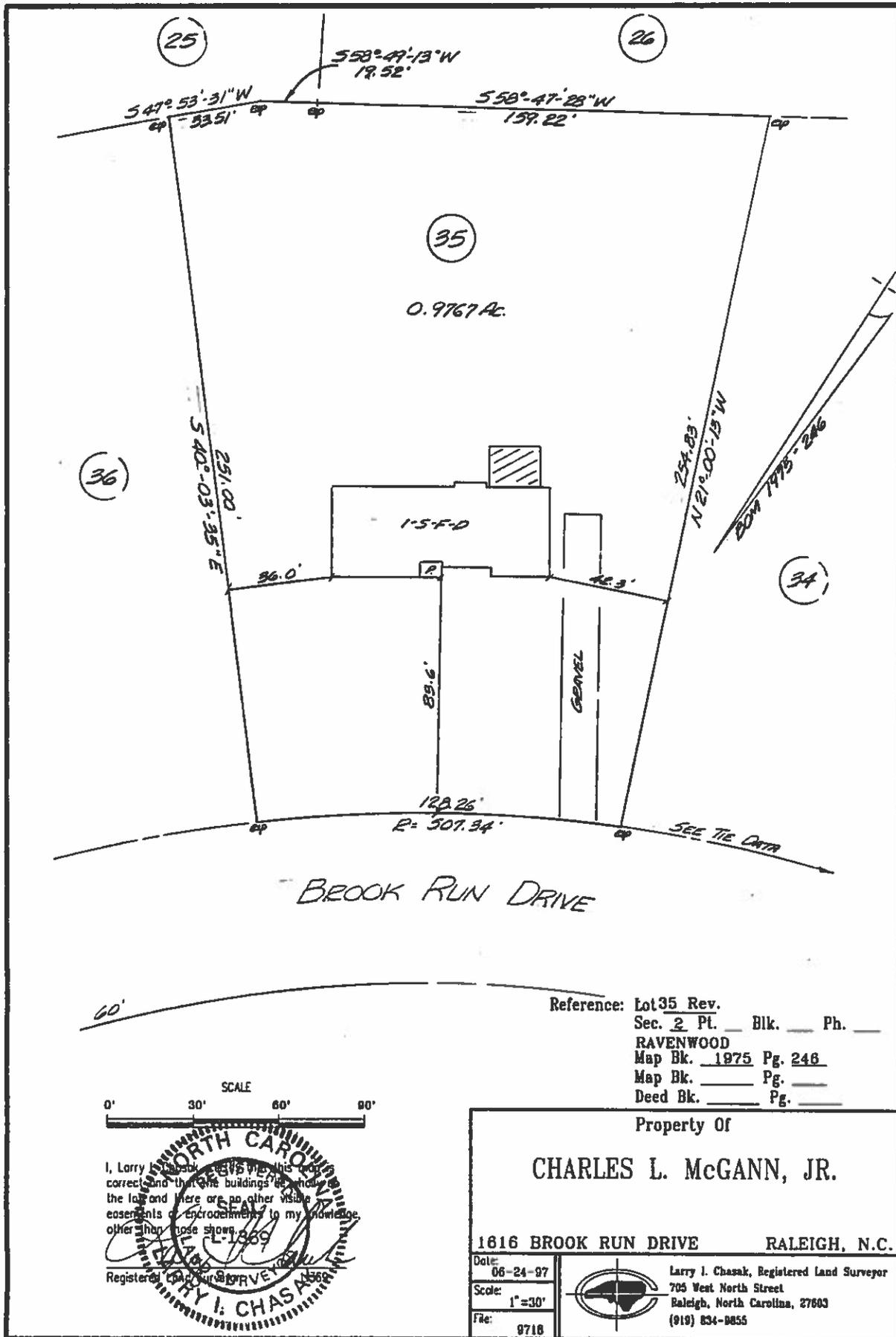
Turning Point Map – Lot 35 - dated 2-10-15

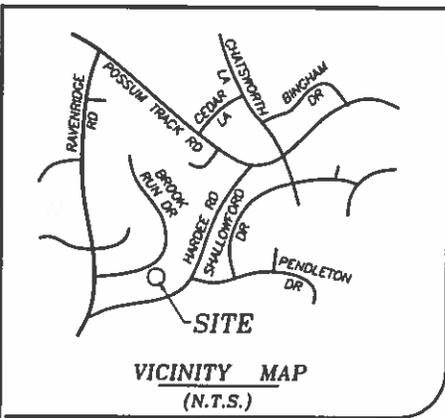
Turning Point Map – Lot 35 - dated 2-10-15 (Expanded)

Phelps Map – Lot 34 – dated 11-13-14

Phelps Comparison Map showing Chasak Line

Distances

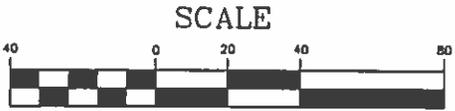




I, Jeffrey H. Davis, PLS, certify this map was drawn under my supervision from an actual survey made under my supervision; and that the error of closure as calculated by latitudes and departures is $1/10,000+$; that the boundaries not surveyed are shown as broken lines plotted from information found in Book _____; Page _____; that this map was prepared in accordance with G.S. 47-30 amended.

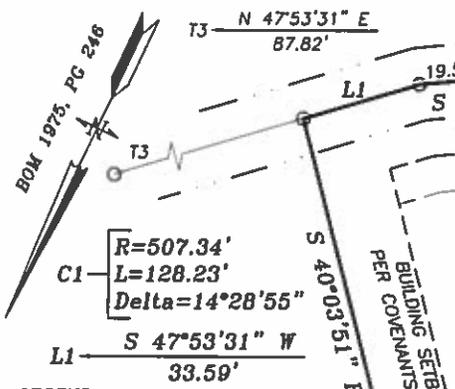
Witness my original signature, registration number and seal this 10TH day of FEBRUARY 2015.

Signed *Jeffrey H. Davis*



(IN FEET)
1 inch = 40 ft. LOT 25

IMPERVIOUS AREA
 HOUSE 3,705 SQ.FT.
 DECK 1,645 SQ.FT.
 PORCH 60 SQ.FT.
 PAVER PAD 105 SQ.FT.
 PLAYSET 105 SQ.FT.
 RET WALLS 100 SQ.FT.
 STORAGES 65 SQ.FT.
 DR/WALK 1,660 SQ.FT.
 TOTAL 7,445 SQ.FT.
 18.6% IMPERVIOUS
 NOT INCLUDED IN CALC
 POOL 420 SQ.FT.

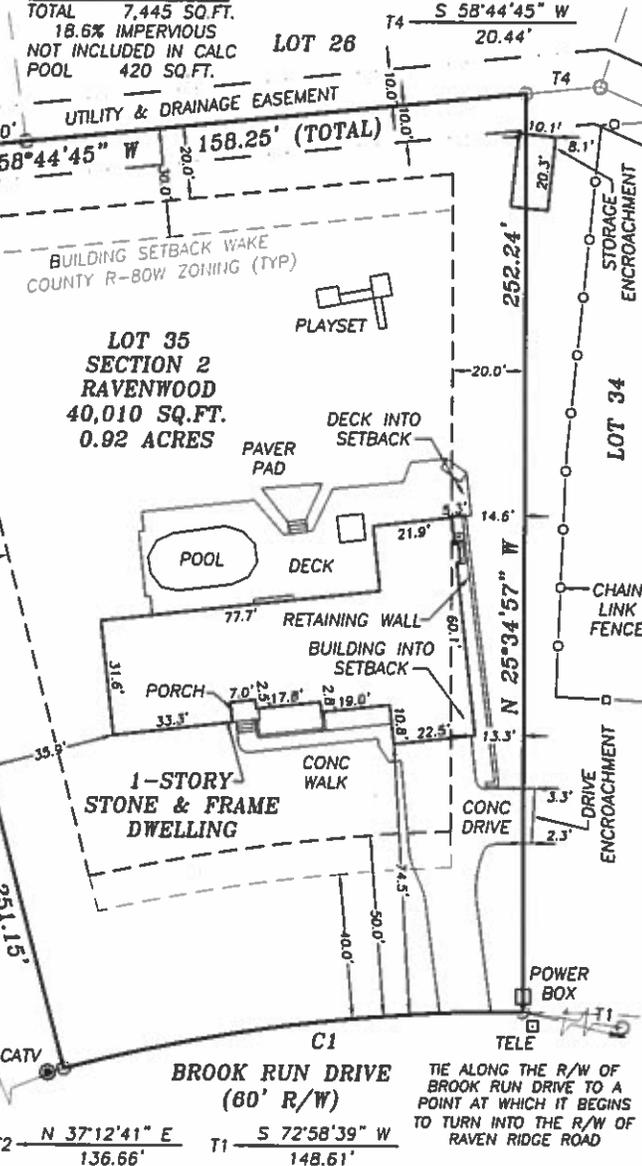


LEGEND
 ○ EXISTING IRON PIPE
 ● NEW IRON PIPE
 X COMPUTED CORNER
 NOTE:
 THIS PROPERTY DOES NOT LIE WITHIN 2000' OF A N.C.G.S. MONUMENT.
 THIS SURVEY IS OF AN EXISTING PARCEL OR PARCELS OF LAND.
 UTILITIES SHOWN ARE FOR REPRESENTATION ONLY AND NOT TO BE USED FOR PROPERTY LINE LOCATION
 ALL EASEMENTS, BUFFERS, & SETBACKS TAKEN FROM RAVENWOOD COVENANTS PER D.B. 2328, PG 0372.

FLOOD CERTIFICATION
 THIS WILL CERTIFY THAT THE SUBJECT PROPERTY () IS or (X) IS NOT located in a SPECIAL FLOOD HAZARD AREA as determined by the Department of Housing and Urban Development, or as shown on the FLOOD INSURANCE RATE MAP.

370368 1719 J
 COMMUNITY # PANEL SUFFIX

Jeffrey H. Davis PLS
 PROFESSIONAL LAND SURVEYOR



REVISED TO REMOVE STORAGE FRAME BASE (2-11-2015)
CHARLES L. MCGANN, JR.
MARY ANN P. MCGANN
 LOT 35, SECTION 2
 RAVENWOOD
 1616 BROOK RUN DRIVE
 RALEIGH NORTH CAROLINA
 DATE: 02-10-2015 DWG. NO. A-18768
 SCALE: 1" = 40'



TURNING POINT SURVEYING PLLC
 4113 JOHN S. RABOTEAU WYND
 RALEIGH, NORTH CAROLINA 27612
 FAX (800)948-0213 PH (919)781-0234
 License No: P-0121

C.N. = 22269
 B.O.M. 1975
 PAGE 246
 MAKE CO. REG.

DR/WALK 1,660 SQ.FT.
TOTAL 7,445 SQ.FT.
18.6% IMPERVIOUS
NOT INCLUDED IN CALC
POOL 420 SQ.FT.

LOT 26

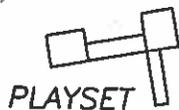
T4 S 58°44'45" W
20.44'

UTILITY & DRAINAGE EASEMENT

58°44'45" W 158.25' (TOTAL)

BUILDING SETBACK WAKE
COUNTY R-80W ZONING (TYP)

LOT 35
SECTION 2
RAVENWOOD
40,010 SQ.FT.
0.92 ACRES



PAVER PAD

DECK INTO SETBACK

POOL

DECK

RETAINING WALL

BUILDING INTO SETBACK

PORCH

CONC WALK

1-STORY
STONE & FRAME
DWELLING

CONC DRIVE

DRIVE ENCROACHMENT

CHAIN LINK FENCE

LOT 34

STORAGE ENCROACHMENT

POWER BOX

TELE

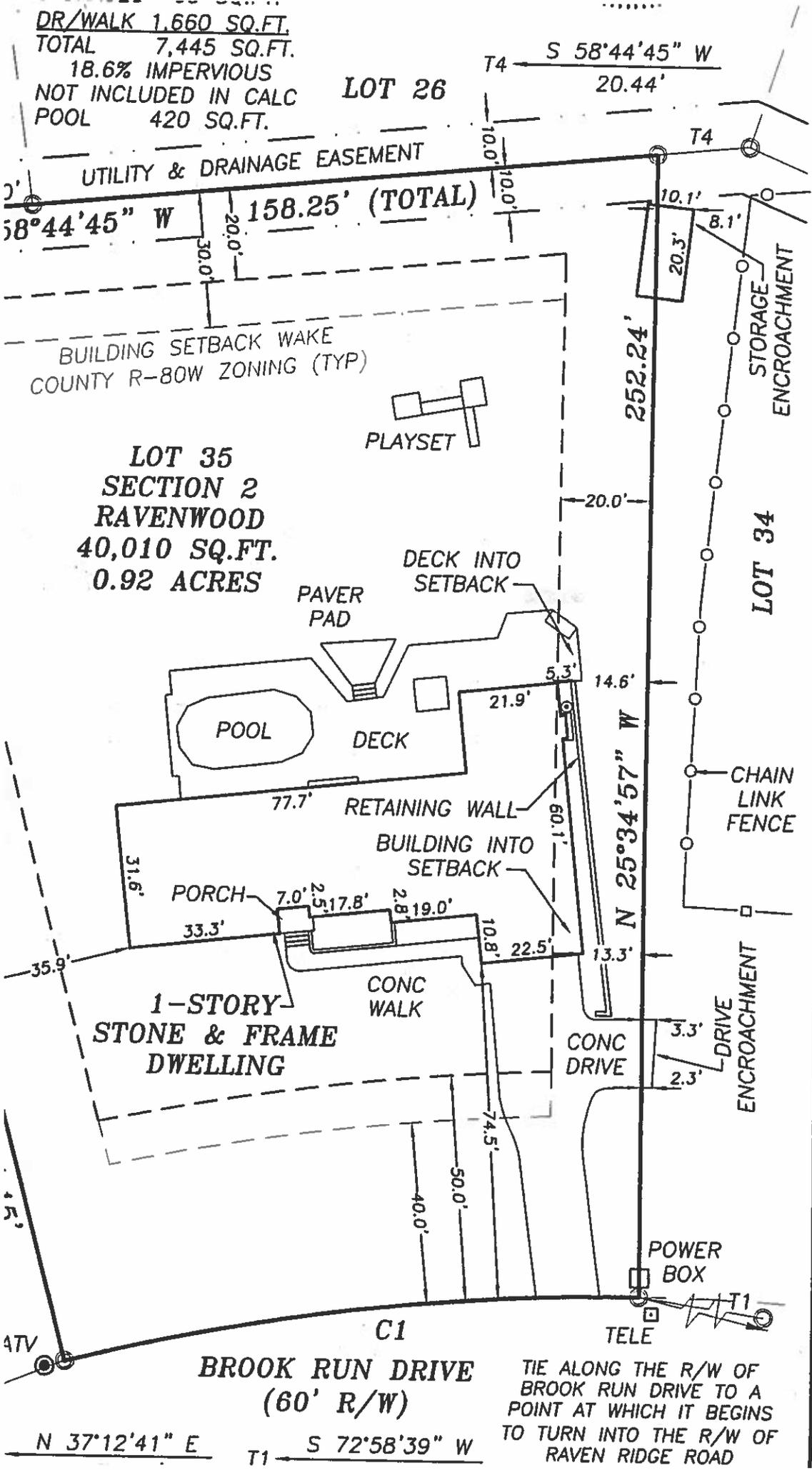
C1

BROOK RUN DRIVE
(60' R/W)

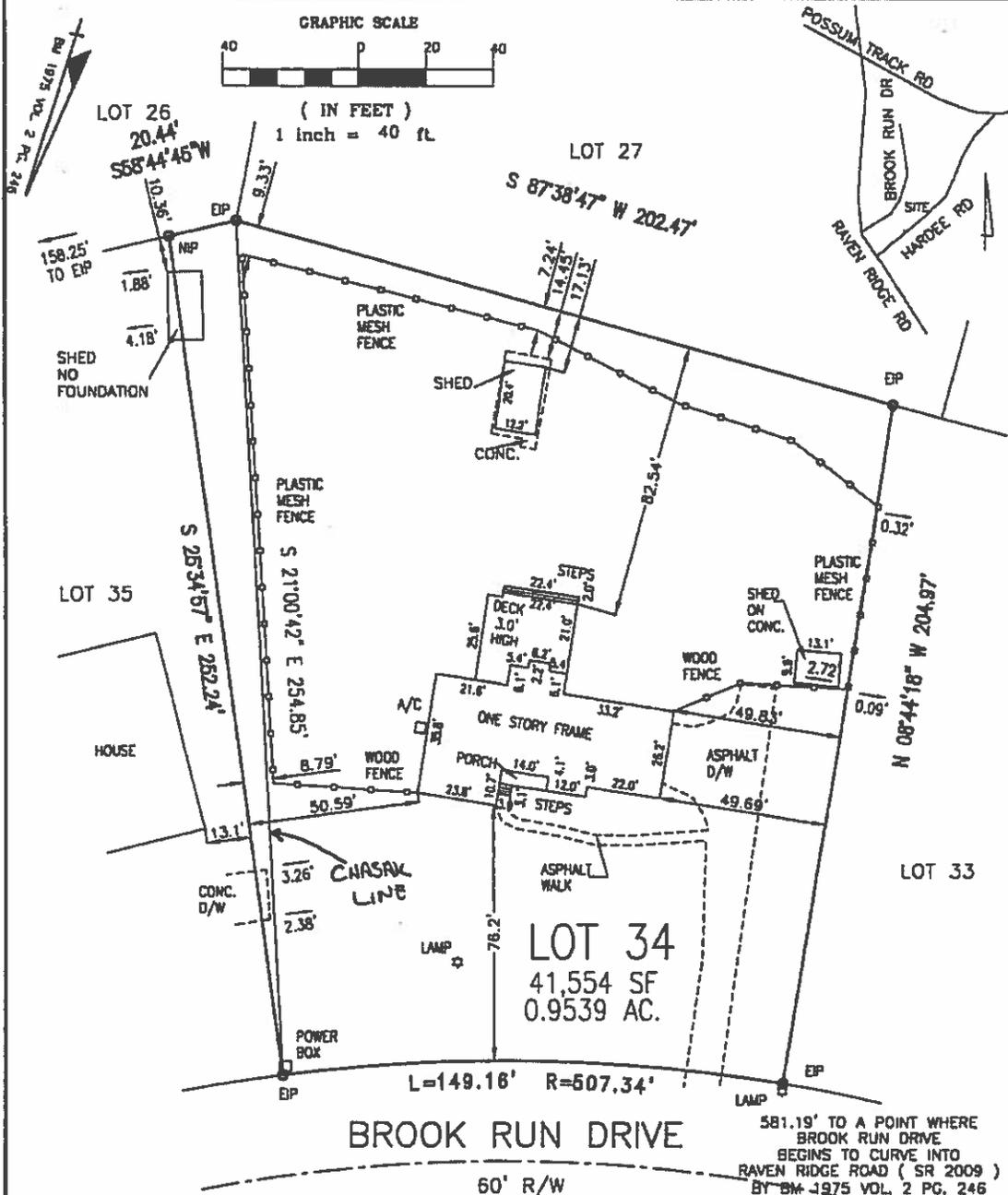
TIE ALONG THE R/W OF
BROOK RUN DRIVE TO A
POINT AT WHICH IT BEGINS
TO TURN INTO THE R/W OF
RAVEN RIDGE ROAD

N 37°12'41" E

T1 S 72°58'39" W



SUBJECT PROPERTY IS IS NOT X LOCATED IN A SPECIAL FLOOD HAZARD AREA AS DESIGNATED ON FEDERAL EMERGENCY MANAGEMENT AGENCY (F.E.M.A.) FLOOD INSURANCE RATE MAP NUMBER 3720171900J ZONE X



A REVISION OF
RAVENWOOD
SECTION NO. 2

DB 11880 PG. 2169 FIELD CLOSURE 1:34,229
PIN # 1719683109

LOT 34 BLOCK

NOT FOR RECORDING, INFORMATION FOUND
THIS SURVEY WAS DONE WITHOUT THE BENEFIT OF
A TITLE SEARCH AND IS SUBJECT TO ANY FACTS
WHICH MAY BE DISCLOSED BY A FULL AND ACCURATE
TITLE SEARCH

LEGEND
CP EXISTING IRON PIPE
NP NEW IRON PIPE
MON MONUMENT
PIL PAVED BALCONY
C.B. DITCH MARK
MH MANHOLE
PP POWER POLE
R/W RIGHT OF WAY
CA CENTER LINE
FES FLARED END SECTION

RECORDED IN BOOK OF MAPS 1975 VOL. 2 PAGE 246 WAKE COUNTY, N.C.

I, JOHN Y. PHELPS, JR. HEREBY CERTIFY THAT THIS MAP IS CORRECT AND THAT THE BUILDINGS LIE WHOLLY ON THE LOT AND THAT THERE ARE NO ENCROACHMENTS OF OTHER BUILDINGS ON SAID LOT UNLESS SHOWN OTHERWISE. THIS MAP IS NOT FOR RECORDING.

PROPERTY OF
**JACK ROBINSON &
SANDRA ROBINSON**
1612 BROOK RUN DRIVE
BARTONS CREEK TWP WAKE CO., NC

JOHN Y. PHELPS, JR. PLS # 1310

SCALE
1" = 40'
DATE
11/13/14
1473
84907

JOHN Y. PHELPS, JR.
PROFESSIONAL LAND SURVEYOR
5110 BUR OAK CIRCLE
RALEIGH, NORTH CAROLINA, 27612 (919) 787-3658

